

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION

IN RE:

Alma F. Nobles,

Debtor.

CHAPTER 13

CASE NO. 15-11972-SDB

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BAYVIEW LOAN SERVICING, LLC

Movant,

-----  
CONTESTED MATTER

v.

Debra A. Nobles, Co-Debtor, and

HUON LE, Chapter 13 Trustee,

Respondents.

**NOTICE OF FOURTH AMENDED MOTION FOR RELIEF  
FROM CODEBTOR STAY**

Movant has filed a Fourth Amended Motion with the court seeking permission to proceed against the above-listed Co-Debtor to collect the debt owed Movant.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.

If you have legal grounds to oppose the motion, or if you want the Court to consider your views on the motion, you must file with the Court a written request for a hearing with the Clerk of the Bankruptcy Court before the expiration of twenty-one (21) days from the filing of the motion.

If you mail your request for hearing to the Court, you must mail it early enough so that it will be received before the time referenced above.

Any request for a hearing must also be mailed to the moving party and all other persons indicated in the certificate of service attached to these pleadings.

If a timely request is filed, you will receive notice of the date, time and place of hearing. If you or your attorney do not take these steps, the Court will decide that you do not oppose the relief sought in the motion and will enter an order granting it.

Date: June 1, 2017

Shapiro Pendergast & Hasty, LLP

By: /s/Taylor Mansell  
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HUON LE, Chapter 13 Trustee,

Respondents.

**FOURTH AMENDED MOTION FOR RELIEF FROM THE CO-DEBTOR STAY**

COMES NOW, BAYVIEW LOAN SERVICING, LLC (hereinafter referred to as “Movant”), by and through its undersigned counsel, moves for relief from the automatic stay and alleges as follows:

1.

The Court has jurisdiction over this matter pursuant to 11 U.S.C. § 362 and § 1301, FRBP 4001(a), and the various other applicable provisions of the United States Bankruptcy Code, Federal Rules of Bankruptcy Procedure, and the laws of the United States of America.

2.

Alma F. Nobles (hereinafter referred to as “Debtor”), filed a petition for relief under Chapter 13 of the Bankruptcy Code on November 24, 2015. Debra A. Nobles is a co-debtor on certain debt(s) owed to Movant.

3.

Movant is the holder or servicer of a loan secured by certain real property in which the Debtor and Co-Debtor have an interest. Movant holds a security interest in the Debtor's and Co-Debtor's real property now or formerly known as 3406 Jewel Dr., Augusta, GA 30906

(hereinafter referred to as “Property”) by virtue of a Security Deed dated July 23, 2008. Said Security Deed secures a Note in the original principal amount of \$59,643.43. The promissory note is either made payable to Noteholder or has been duly endorsed. Noteholder is the original mortgagee or beneficiary or the assignee of the security instrument for the referenced loan. An amended transfer of claim 7-1 was filed on 4/10/17 [Doc. 44] as evidence and notice pursuant to Rule3001(e)(2), Fed. R. Bankr. P., of the transfer to Bayview Loan Servicing, LLC from CitiFinancial Servicing LLC.

4.

Movant alleges that the Debtor is in default to Movant under the terms of the loan documents, having failed to make certain post petition mortgage payments that have come due. As of January 6, 2017, the post-petition arrearage owed to Movant is \$2,977.20 and consists of the August 28, 2016 through December 28, 2016 monthly mortgage payments at \$595.60 (P&I \$595.60; Escrow \$0.00) minus a suspense balance of \$.80. An additional payment will come due January 28, 2017 and on the twenty-eighth day of each month thereafter until the loan is paid in full.

5.

The current unpaid principal balance due under the loan documents is approximately \$57,873.91. The Property is most recently valued at \$47,200.00 by the Richmond County Tax Assessor’s Office.

6.

Movant’s security interest in the Property is not adequately protected due to the Debtor's and Co-Debtor's failure to maintain the mortgage payments.

7.

Movant has incurred attorney's fees and costs as a result of filing this motion. These fees and costs are recoverable pursuant to the loan documents, and Movant seeks leave to recover these fees and costs under the remedies available therein.

8.

Pursuant to 11 U.S.C. § 1301, Movant alleges that sufficient cause, including lack of adequate protection, exists for the co-debtor stay to be terminated.

WHEREFORE, Movant respectfully prays to the Court as follows:

- (a) That the co-debtor stay under 11 U.S.C. § 1301 be modified to allow Movant to pursue state remedies to protect its security interest in the Property, including, but not limited to, advertising to effectuate a foreclosure sale and gaining possession of the Property; to contact the Debtor and/or Co-Debtor via telephone or written correspondence to discuss potential loan workout or loss mitigation opportunities; and to perform property preservation as appropriate;
- (b) That Movant's attorney's fees and costs incurred in filing and prosecuting this Motion be recoverable as pursuant to the loan documents and remedies available therein;
- (c) That the fourteen (14) day stay of Bankruptcy Rule 4001(a)(3) be waived; and
- (d) For such other and further relief the Court deems just and proper.

Dated June 1, 2017

Shapiro Pendergast & Hasty, LLP

/s/Taylor Mansell

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**CERTIFICATE OF SERVICE**

I certify that I am over the age of 18 and that on June 1, 2017, a copy of the FOURTH AMENDED MOTION FOR RELIEF FROM CO-DEBTOR STAY was served by electronic mail or by first class U.S. Mail, with adequate postage prepaid on the following persons or entities at the addresses stated:

Debra A. Nobles  
3406 Jewel Drive  
Augusta, GA 30906

Alma Frances Perkins Nobles  
3406 Jewel Drive  
Augusta, GA 30906

Angela McElroy-Magruder  
Claeys, McElroy-Magruder & Kitchens  
512 Telfair Street  
August, GA 30901

Huon Le  
Chapter 13 Trustee  
P.O. Box 2127  
August, GA 30903

Dated June 1, 2017

Shapiro Pendergast & Hasty, LLP

/s/Taylor Mansell

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